



Education & Skills
Funding Agency

Using subcontractors in the delivery of apprenticeships

Policy background and examples

April 2018

Of interest to apprenticeship training providers.

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Summary

This publication provides policy context, clarification of key terminology and some illustrative examples around the use of subcontractors in the delivery of apprenticeships. It has been developed with input and advice from the ESFA's Provider Reference Group.

The publication also explains that we will review some of the apprenticeship subcontracting funding rules before August 2018.

This guidance is for:

- providers that wish to ensure that they are subcontracting in accordance with the apprenticeship funding rules and policy intent
- employers that wish to understand how subcontracting can support quality apprenticeship training
- subcontractors that wish to understand more about how they can contribute to the delivery of apprenticeships

Policy background

Government's apprenticeship reforms are designed to put control back into the hands of employers so they will gain the skilled workforce they need to compete globally. As part of this, we want to make sure that employers can choose how they work with providers and their subcontractors to deliver high quality training that meets their needs.

Subcontracting has always been present in apprenticeships to some extent. It has tended to take one of two forms:

- a provider engages one or more subcontractors to co-deliver an employer's apprenticeship programme

- a provider engages one or more subcontractors; the provider and the subcontractors work with different employers

The rules for subcontracting are designed to increase the quality of subcontracted provision and to ensure that employers have a direct relationship with their main provider. We believe it is important that government funds are not diverted away from training and assessment in the form of fees and other charges, and so the intent of the rules is to make sure that the main and subcontracted providers both add value to the employer's apprenticeship programme.

The main provider has full responsibility for the quality of all aspects of every apprenticeship delivered for the employer, and is required to carry out formal assessments of their subcontractors' provision. The main provider is also required to deliver some of the employer's apprenticeship programme's training and/or on-programme assessment.

We will continue to look closely at subcontracting practices, and will consider making further changes over time if necessary. We will work with employers and providers to make sure subcontracting practices are proportionate, deliver good value for taxpayers and good outcomes for employers and apprentices.

Introduction

Employers have told us that they want flexibility in the arrangements they make for the delivery of their apprentices' training. They want the choice to be able to:

- work only with one provider and expect that provider to deliver all of their apprentices' training
- work only with one provider, with the expectation that the provider will manage a network of subcontractors
- work directly with a number of providers

To enable them to meet these diverse employer needs, providers have told us that they would like to understand more about the policy intent and flexibility of two of the apprenticeship subcontracting rules. These rules are:

1. At the outset of each apprenticeship, a main provider and employer will agree a plan for its delivery. You must directly deliver some of the apprenticeship training and/or on- programme assessment associated with each employer's apprenticeship programme. By apprenticeship programme we mean the apprentices that are being trained for the employer that has chosen you. The volume of training and/or on-programme assessment that you directly deliver for each employer must have some substance and must not be a token amount to satisfy this rule. It must not be limited to a brief input at the start of each employer's programme or involve delivery to just a few of a large number of apprentices.
2. You can use delivery subcontractors to complement your own delivery if requested by an employer and agreed at the start of an apprenticeship. Delivery subcontractors can deliver full or part-apprenticeship frameworks and standards.

In this document, we have answered the questions that providers have most commonly asked us about these rules. The answers aim to provide more guidance on the policy intent of the rules and their flexibility; they are designed to complement the rules, not to change or replace them.

What is meant by an employer's 'apprenticeship programme'?

An employer's apprenticeship training programme consists of all of the apprenticeships a provider, and its subcontractors if applicable, is delivering for an employer. Naturally, the scale and make-up of an employer's programme may vary from month to month or from year to year.

The programme may consist of just a single apprentice, or a defined number of apprentices starting the same apprenticeship at the same time with the same planned end date. Equally, the programme may be more complex, with rolling start and end dates, several different apprenticeship standards, and varying numbers of apprentices per intake.

When an employer's apprenticeship programme includes subcontracted delivery, the provider will draw up a written agreement with the employer specifically to set out which parts of the programme will be delivered by the provider and which parts by the subcontractor. By keeping this agreement up to date, changes in delivery over time can be recorded.

What is included within the definition of 'delivering apprenticeship training and/or on-programme assessment'?

The definition of 'delivering apprenticeship training and/or on-programme assessment' includes:

- Off-the-job training. This could include some or all of the training aspects of a licence to practise or non-mandatory qualification. In both cases there must be a clear overlap between this training and the knowledge, skills and behaviours needed for the apprenticeship standard.
- Planned on-programme assessment (progress reviews).
- Distance, online or blended learning relating to partial delivery of the off-the-job training element of an apprenticeship.

Whilst other categories of eligible costs are set out in the apprenticeship funding rules, these are not included in the definition of 'delivering apprenticeship training and/or on-programme assessment':

- Materials (non-capital items) used in the delivery of the apprenticeship framework or standard. By materials (non-capital items), we mean the equipment or supplies necessary to enable a particular learning activity to happen. These items would not normally have a lifespan beyond the individual apprenticeship being funded.
- Any administration directly linked to the training and assessment, including end- point assessment. This includes costs relating to the development of teaching materials, lesson planning, the processing of the ILR and quality assurance.
- Funding to re-take mandatory qualifications or the end-point assessment, providing additional learning takes place.
- Accommodation costs for learning delivered through residential modules where the residential learning is a requirement for all apprentices. Any costs for residential modules must represent value for money.
- Costs of an apprentice taking part in a skills competition if the employer and provider have agreed that participation in the competition directly contributes to helping that individual achieve the apprenticeship standard.

How much of an employer's apprenticeship training and/or on-programme assessment must be delivered by a main provider for it to have some substance and be more than a token amount?

The policy intent of this part of the rule is:

- for providers to be empowered to meet the individual apprenticeship needs of each employer they are working with
- to reflect the position that main providers on the Register of Apprenticeship Training Providers must be training providers and not managing agents

- to support the fact that the vast majority of employers have a large number of providers to choose from so it is unreasonable for a provider and employer to be working together if the provider has no real training offer to make to a particular employer

We do not define or quantify 'substance' in absolute terms. We also do not define a point in time at which the level of substance should be measured. This is because an employer's apprenticeship programme may well evolve over time, with a varying nature and scale as apprentices start and finish their programmes. We do not expect auditors to determine compliance with this rule against an arbitrary quantification of 'substance'.

We are explicit that 'substance' does not mean brief input at the start of each employer's apprenticeship programme or a token amount. Instead, the focus should be on the subcontractor's delivery complementing the main provider's delivery for each employer they are working with.

There is no requirement for a provider to deliver some of each apprentice's training or on-programme assessment. What is important is being able to demonstrate that they are delivering something of substance for that employer according to the parameters of the employer's apprenticeship programme and that what is being delivered is training or on-programme assessment rather than other eligible costs that wrap around the delivery of training and on-programme assessment.

Individual provider legal entities that have links with other provider legal entities such as being in the same group, sharing directors, having the same ownership or sharing the same brand must remember that, if they are co-delivering an employer's apprenticeship programme, we define this as subcontracting and they must follow all of the subcontracting rules.

Illustrative examples of meeting the rule

1. A provider is working with an employer to train four customer service apprentices per year and two IT apprentices over the same duration. The

provider has the in-house capacity and capability to undertake the training and on-programme assessment for the customer service apprentices, but does not have capacity to train or on-programme assess the IT apprentices. The employer wants to work with the provider so requests that the provider subcontracts the IT apprenticeships to an appropriately skilled subcontractor.

2. A provider is working with an employer to train numerous apprentices across different apprenticeship standards of varying durations. The employer asks that the provider uses subcontractors to complement the provider's own delivery, to ensure the best possible specialist training for its apprentices. The provider agrees with the employer that they are able to engage several different subcontractors whilst ensuring that it retains delivery of some of the apprenticeship training and on-programme assessment for the employer.
3. A provider is working with an employer to train a single apprentice. The provider has the in-house capacity and capability to carry out all of the apprenticeship training and on-programme assessment. The apprentice is assessed as needing English and maths qualifications to meet the required standard. The provider subcontracts the English and maths to a subcontractor.
4. An employer has chosen a provider to deliver its apprenticeship programme. There are already twelve apprentices being trained. The employer has a new requirement for a degree apprenticeship. The provider doesn't have the capability to deliver this apprenticeship, but the employer still wants to work with them. The provider identifies a degree apprenticeship from a University as being suitable. The employer agrees with the provider that the University will deliver all of the degree apprenticeship as a subcontractor to the provider.
5. A provider is approached by an employer who is looking for one apprentice, to undertake a standard that the provider does not normally offer. The employer isn't yet ready to train any apprentices in any other occupation. The provider very much wants to work with the employer, but is conscious that they can't deliver much, if any, of the standard that the employer is requesting. The

provider therefore approaches an organisation who does have capability to deliver all of the apprenticeship training and on-programme assessment. The provider wants to have the ability to deliver this new standard, so they reach an agreement with the employer and the other organisation to take an individual on secondment to work directly for them. The provider directs and manages the secondee in exactly the same way as they do their other tutors and assessors. The provider may also subcontract some of the apprentice's training and on-programme assessment to the organisation to complement their own delivery.

Illustrative examples of not meeting the rule

1. A provider is approached by an employer to train nine business administration apprentices and one procurement apprentice. The provider has the in-house capacity and capability to deliver the training and on-programme assessment for the procurement apprentice, but does not have capacity to train or on-programme assess the business administration apprentices so decides to subcontract this delivery.
2. A provider is approached by an employer to train two apprentices to a specialist technical apprenticeship standard. The provider, whilst able to deliver some training in a closely related specialist area, is unable to train the apprentices to the particular standard being requested. The provider wants to work with the employer and knows a subcontractor who can do the delivery and has the capacity. The provider decides to subcontract all of the training and on-programme assessment, but organises to have some of the training undertaken at its premises, undertakes comprehensive quality assurance of the subcontractor's delivery and maintains the relationship with the employer at all times.
3. A provider is asked by an employer to train a single apprentice in a specialism that it does not have the ability to deliver. The employer convinces the provider that other similar employers are likely to approach them to deliver the

same apprenticeship. The provider decides that this is a good opportunity for them. They agree with the employer that they will undertake the quality assurance and deliver any English and maths if it is needed. They find a subcontractor who can deliver all of the apprenticeship training and on-programme assessment for the employer.

4. A provider identifies an opportunity to deliver some additional, specialist apprenticeships for employers operating in a particular sector. The provider decides to acquire another training provider who already delivers these apprenticeships. The provider then promotes to the relevant employers that they can directly deliver the specialist apprenticeships without the use of subcontractors due to the shared ownership of the two companies.
5. The provider that an employer has chosen is one of a number of companies who share the same parent company. The provider specialises in delivering horticulture apprenticeships. The employer has a requirement for an accountancy apprentice. The provider agrees with the employer that they can directly deliver the new apprenticeship. However, they pay the parent company to deliver the accountancy apprenticeship training.

Future review

We will keep this publication under review through testing the value it is adding in supporting employers and providers in delivering quality apprenticeships.

In the coming months, we will be reviewing at least two other aspects of the subcontracting funding rules. The first is subcontracting fees and charges; so that we can be assured that our funding is being used for recognised costs. The second is the evidence requirements associated with the subcontracting funding rules.

Any subsequent changes to our rules would come into force from August 2018.

The ESFA has issued the above as guidance only. Please note that it is not exhaustive.

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